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In re Application of
ANDREW B. HAYNS
Serial No.:09/202500
PCT No.: PCT/GB97/01319
Int. Filing Date: 14 May 1997
Priority Date: 16 May 1996
For: LIQUID AND GAS PURIFICATION
AND FILTRATION

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION TO REVIVE UNDER 37 CFR 1.137(b)" filed 16 December 1998 in the above-captioned application.

BACKGROUND

The above-captioned application was filed on 14 May 1997. 35 U.S.C. 371 papers were not filed by the 30 month deadline. On 16 December 1998, applicant filed the present petition seeking revival of the application on ground of unintentional delay under 37 CFR 1.137(b). Submitted with the petition is a check in the amount of \$1210.00 to cover the petition fee as required under 37 CFR 1.17(m) and authorization to charge any additional fees under 37 CFR §§ 1.16 & 1.17 necessary to the revival of this application to Deposit Account No.02-4035.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

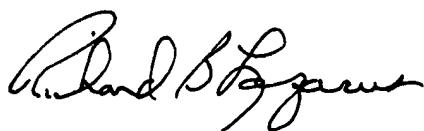
The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted. Applicant's attorney of record, Roger Browdy, in the petition stated that the "entire delay in filing the papers necessary to perfect the completion of entry into the U.S. national phase of this case was unintentional" which has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office. The terminal disclaimer is not required in this application since it was filed after 08 June 1995.

A review of the application file reveals that a DEMAND for international preliminary examination, in which the United States was elected, was filed on 5 November 1997. The election of the United States prior to the expiration of 19th month from the priority date under the provisions of Article 39 of the Treaty extends the period for paying the basic national fee for entry into the national stage in the United States to 30 months. In applicant's instance, such period did not expire until midnight on 16 November 1998. Since applicant failed to pay the basic national fee within 30 months of the priority date or by 16 November 1998, the application went abandoned. On 16 December 1998 applicant filed a petition under 37 CFR 1.137(b). Applicant has paid the proper fees totaling \$970.00 for filing with EPO search report in the amount of \$840.00 and surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date. No fees have been charged to applicant's deposit account.

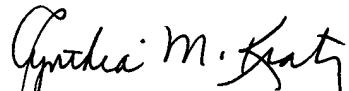
DECISION

In view of the discussion mentioned above, applicant's petition under 37 CFR 1.137(b) is GRANTED.

The application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/ EO/905) indicating that the oath or declaration of the inventor has not been filed.



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